

Message Text

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PAGE 01 NEW DE 14543 120639Z

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ACTION SS-30

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /031 W

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O R 120540Z DEC 73

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC IMMEDIATE 8416

INFO AMEMBASSY LONDON

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EXDIS

SS PASS TO MR. SISCO

E.O. 11652: N/A

TAGS: EFIN, IN

SUBJECT: RUPEES: TRANSMITTAL LETTER: JOINT STATEMENT

REF: STATE 242661; NEW DELHI 14537

1. WE WILL DO EXACTLY AS THE DEPARTMENT DESIRES, AND THE WORDS "FOR REVIEW" WILL BE INCLUDED IN OUR JOINT PRESS STATEMENT.

2. I SHOULD LIKE TO COMMENT HOWEVER THAT I DOUBT VERY MUCH THAT WHOEVER IT IS WHO MADE THIS DECISION IN WASHINGTON HAS HAD AS MUCH EXPERIENCE DEALING WITH THE CONGRESS AS I HAVE HAD. I CANNOT CONCEIVE CONGRESS NOTICING, OR IN ANY EVENT TAKING EXCEPTION TO THE STANDARD LANGUAGE WE PROPOSED. WHAT THE DEPARTMENT IS DOING, HOWEVER, IS CONCEDING TO THE CONGRESS BY IMPLICATION A POWER IT DOES NOT HAVE BY STATUTE. A CONFERENCE COMMITTEE HAS USED THE TERM "REVIEW" WITH RESPECT TO THIS FORTHCOMING EXECUTIVE AGREEMENT. THIS HAS NO FORCE OF LAW WHATEVER. TO THE CONTRARY, THE STATUTORY PROVISION UNDER WHICH WE ARE PROCEEDING SPECIFICALLY DOES NOT USE THE TERM "REVIEW", NOR IN ANY WAY INDICATES THAT THE COMMITTEES CONCERNED ARE EXPECTED TO TAKE ANY ACTION ONE WAY OR ANOTHER ON THE PRESIDENT'S

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INITIATIVE. TO MY READING, THE LAW SIMPLY PROVIDES FOR

PUBLICATION ON INTENT.

3. IN RECENT AMERICAN HISTORY I DO NOT BELIEVE THERE IS ANY PRESIDENT WHO HAS STRUGGLED MORE SERIOUSLY WITH THE CONGRESS TO PRESERVE EXECUTIVE PREROGATIVES. I HAVE PERSONALLY THOUGHT SOME OF THESE STRUGGLES WERE BASED ON DOUBTFUL PRECEDENT AND LOGIC, BUT I HAVE NO DOUBT THAT THE PRESIDENT CHOSE TO DO BATTLE EVEN SO. I FIND IT ALL THE MORE CURIOUS THAT THE DEPARTMENT OF STATE SHOULD NOW BE WILLING TO CONCEDE TO THE CONGRESS A POWER IT DOES NOT HAVE AND HAS NOT BY ANY FORMAL ACTION REQUESTED, WITH REGARD TO AN EXECUTIVE POWER OF GREAT SIGNIFICANCE IN FOREIGN AFFAIRS. I DO NOT KNOW THE SPECIFIC LEGISLATIVE HISTORY OF SECTION 104 OF PL-480 BUT UNLESS I AM MISTAKEN, IT REFLECTS A CLEAR UNDERSTANDING ON THE PART OF THE CONGRESS THAT IT IS DIFFICULT FOR IT AS A LEGISLATIVE BODY TO MAKE DECISIONS OF THE KIND THAT HAVE TO BE MADE IN THIS FIELD-- TO VOTE, THAT IS, FOR AGREEMENTS SUCH AS WE HAVE REACHED-- AND THAT ACCORDINGLY THEY HAVE VOLUNTARILY YIELDED UP NORMAL REVIEW POWERS IN ORDER THAT SUCH AGREEMENTS CAN BE MADE. A WISE AND SENSIBLE COURSE BY THE CONGRESS. SIMILAR IN WAYS TO THEIR DECISION EMBODIED IN THE REORGANIZATION ACT OF 1946. WHY NOW DOES THE DEPARTMENT OF STATE WISH TO THWART THIS SENSIBLE AND CONSTRUCTIVE ARRANGEMENT AND DO SO AT CONSIDERABLE COST TO THE PRESIDENCY.

4. NO MATTER. YOU SHALL HAVE YOUR WAY.
MOYNIHAN

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